REMARKS

The objection under Section 112 has been cured by canceling claims 3 and 7.

Claim 1 has been amended to further clarify that the claim indicator has nothing to do with the light on the imaged object at the time of image capture. Instead, as has always been clear in the claim, but is even more clear now, what is of interest is the light on the display screen. In other words, light capturing apparatus associated with an imager are used not for imaging, but for making ambient light measurements, controlling display brightness. Thus, the image sensors used for imaging can have a secondary consideration providing additional functions without the need to provide an additional late monitoring circuit.

This most certainly is not what is done in the cited reference to Murakami. Murakami is explicit that what he is measuring is the brightness of the imaged object, not the brightness of the display. For example, in paragraph 34 it is explained that "Moreover, since the brightness of a back light of a liquid crystal display monitor has changed with the brightness of a photographic subject at the time of photometry ... ." Moreover, even in the section cited in the office action, paragraph 27, it is indicated that the brightness L of the back light 39 of LCD 38 proportional "to photographic subject brightness."

Therefore, the reference to Murakami fails to meet the claimed limitations and the citation of Nishibe for the exact same purpose for which Hosoi was previously cited is a transparent attempt to seek reconsideration of the now final Board decision. In other words, it is improper to seek reconsideration of the now final Board decision by simply posing the exact same rejection using another reference.

Even before amendment, the statements made by the Board in reversing the rejection of claim 1 apply with equal force to the latest rejection by simply substituting Nishibe for Hosoi in the Board's comments:

> Turning lastly to the obviousness rejection of claim 1, we agree with the Appellant's arguments that Hosoi relates to controlling the brightness of a display but "does not use an integration time," and that Hosoi teaches how to use "an integration time to determine the intensity of ambient light" (Br.9). We additionally agree with Appellant's argument that "this is still one step short of converting that information in some way to a form useful for controlling display brightness." (Br.9).

See Decision on Appeal at page 6.

The present rejection is even weaker because it cannot even be said that the primary reference teaches controlling the brightness of the display. Not only does it not control the brightness of the display based on ambient light around the display, but it fails, like the previous primary reference, to teach using integration. Citing another reference to suggest integrating in a different context suffers from the same infirmity which is already the basis for reversal by the Board of Appeals.

Therefore, reconsideration would be appropriate.

Respectfully requested,

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